Gen. Serial No. 30.

14417.

1895 R 3952

From The Deputy Commissioner Chitaldroog District

(8)

To

The Chief Secretary to the Govern~~Dewan~~ of Mysore.

Dated 20th April 1895

Despatched 23rd

Received

Enclosures None.

General No. 804-

No. 706-

In reply to

SUBJECT.

Submits certain proposals regarding the amendment of Mysore Land Revenue Rules-

Rev. 26/4/95

References (to be entered only in the Dewan's Office.)

29.4.95 Submitted for orders.

1/5/95

2/5/95

send copies to other Dep. Comrs for their opinions & call for their opinions on the suggestions made in this letter

3/5/95

Drafted 3/5/95

Modifi
paras 2
of Rule
L. R. Ru
by the L
of Calcito
April 19
opinion
the
Dy Comm
-ing the
Submiss
Subject to

1894-95
(L. R.)

File No. 18.
Serial No. 1-16.

Sub:- Modifications of paras 26, 27 & 29, of Rule XX of the Land Revenue Rules

would often place the applicant or purchaser at a great disadvantage. After taking possession, he cannot long be expected to suffer the land to remain idle. He has to pay the assessment fixed for it and he therefore proceeds after a reasonable time to spend labor and money on it so as to bring it under cultivation. If subsequently the Government in accordance with the recommendation of the Deputy Commissioner directs the disturbance of such possession, the consequence would be a loss to the person concerned. All such inconveniences would be minimized by the abrogation of the rule which makes a reference to Government indispensable. It is a matter for consideration whether the head of a District cannot safely be entrusted with the comparatively small power of himself dealing with such matters. Under para 26 the grant by the Amildar is conditional and not absolute. A man taking possession

G. R. S. IX-5]

Previous references.

L.R. 5-1892

1894-95

~~191~~ .

(L-R.)

File No. 18

Serial Nos. 1—16

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1—16

Part B for January 1898

SUBJECT.

Modifications of paras 26, 27 + 29 of Rule XI of the Land Revenue Rules.

Indexed

Cross-referred

Countermarked

W D 83—GPB—50,000—24-7-16

Gen. Serial No. 30.

OFFICE
14417
of
1895 R 3952

From The Deputy Commissioner
Chitaldroog District

(8)

To

The Chief Secretary to the Government
Dewan of Mysore.

Dated 29th April 1895

Despatched 29th

Received

Enclosures Nonc.

General No. 804.
No. 705.

In reply to

SUBJECT.

Submits certain suggestions regarding the assessment of Income and Revenue Rules.

Send these to the Dy Comrs & call for their opinions on the suggestions made in this letter

3/5/95

Dy Comrs

3/5/95

Rec'd. 2/5/95

References (to be entered only in the Dewan's Office.)

29.4.95 Submitted for orders.

1/5/95 2/5/95

8

Proceedings of the Government of Mysore, Revenue, dated 6th May 1895.

READ :—

Letter No. 804—706, dated 21st April 1895, from the Deputy Commissioner of the Chitaldrug District, to the Chief Secretary to the Government of Mysore.

I have the honor to submit that in my humble opinion, Rule XX of the Mysore Land Revenue Rules requires certain modifications in the manner hereinafter mentioned.

2. Para 26 of this Rule refers only to appeals and not to revision also. But Chapter XIII of the Code quoted therein relates both to appeals and to proceedings in revision. The Deputy Commissioner is empowered by Section 217 to call for records and to pass such orders as he deems fit. His interference is thus as legal and necessary in revision as in appeal. I would therefore insert after "appeals," and before "if any" the words "or revision proceedings."

3. Para 27 requires a somewhat similar treatment. Otherwise the prudency of a revision proceeding would be no bar to the registary being effected in the name of the applicant or purchaser. To remedy this defect, I beg to propose the insertion of the following sentence at the end of this para. "Likewise when the record of any grant or sale has been called for under the provisions of Section 217 of the Code, the registary should be postponed pending the result of the examination of such record".

4. Para 29 seems unnecessary and I therefore beg to propose its removal. The pendency of an appeal, much less of a revision proceeding, does not prevent an applicant or purchaser from being at once put in possession. The registry alone is deferred but not the delivery of possession as well. The result is that in all cases in which the Amildar is himself competent to grant an application or to confirm a sale, permission to enter upon the land is given without waiting for orders from the appellate or revising authority. In other words, in the majority of cases, the applicant is put in possession before an appeal or revision proceeding could be admitted or disposed of. In such cases, the Deputy Commissioner may cancel the grant of sale but he cannot go further and pass final orders regarding the disposal of the land. A reference to Government in every such case is indispensable. Whenever possession has not been given the correction of irregularities or the redress of grievances would be prompt and easy. But not so in cases in which there has been a delivery of possession. One of two or more rival applicants may have been improperly preferred; or a land which ought to have been sold may have been given away without a sale either for an upset price or for the mere asking; or a sale might be impugned on the ground of material irregularity; or there might be special circumstances which render a grant or sale peculiarly hard upon all the villagers generally or upon one or more of them in particular. In these and other similar cases irrespective of the question of possession the Deputy Commissioner ought to be able to at once cancel the grant or order the land to be resold or otherwise disposed of. But the law as it stands, holds otherwise. His disapproval and cancelment of the grant notwithstanding, the Deputy Commissioner is obliged to suffer the improper possession of the applicant or purchaser to continue pending the result of a reference to Government. But it is only in rare and exceptional cases, that the Deputy Commissioner would feel disposed to trouble the Government with such a reference. In other cases though the grant or sale may not be unassailable, there would naturally be a disinclination on his part to interfere. If a man does not take possession, his grant is easily revocable but if he enters upon possession the safety of his title under an improper grant is almost ensured. Such a difference is in my opinion undesirable. Then again, the delay which must necessarily arise by having to submit every such case for the orders of Government would often place the applicant or purchaser at a great disadvantage. After taking possession, he cannot long be expected to suffer the land to remain idle. He has to pay the assessment fixed for it and he therefore proceeds after a reasonable time to spend labor and money on it so as to bring it under cultivation. If subsequently, the Government in accordance with the recommendation of the Deputy Commissioner directs the disturbance of such possession, the consequence would be a loss to the person concerned. All such inconveniences would be minimized by the abrogation of the Rule which makes a reference to Government indispensable. It is a matter for consideration whether the head of a District cannot safely be entrusted with the comparatively small power of himself dealing with such matters. Under para 26 the grant by the Amildar is conditional and not absolute. A man taking possession under such a provisional grant, takes it subject to the liability of being dispossessed in the event of the grant being cancelled by the appellate or revisional authority. If aggrieved by the Deputy Commissioner's order, he has the right of either appealing to Government or of invoking its interference in revision. There is thus no useful object to be gained by the retention of a Rule which is sometimes prejudicial to the very person for whose benefit it is intended while at other times it either retards or frustrates the redress of grievances.

No. 19821-32—R. 2851, DATED, BANGALORE, 6TH MAY 1895.

ORDER THEREON.—Ordered that copies of the foregoing letter be forwarded to the Deputy Commissioners of other Districts and Sub-Division Officers for opinion on the suggestions made by the Deputy Commissioner, Chitaldrug District.

L. ANANTASAMI RAO,
Offg. Chief Secretary.

To—The Deputy Commissioners of Districts
The Sub-Division Officers.

Exd.—M.A.

1894-95

GOVERNMENT OF MYSORE

REVENUE

PROCEEDINGS

Dated 6th May 1895

No. 19821-3
R. 285

Inviting the opinion of the D
Commissioners and Sub-Division C
on the suggestions made by the I
Commissioner, Chitaldrug District, r
ing certain amendments to the I
Land Revenue Rules.

M.G.C.P.B.—16-5-95—120

Modifications of
paras 26, 27, 29.
of Rule XX of the
L.R. Rules, suggested
by the Ly Commrs.
of Chitaldroog in
April 1875, and the
opinions of the Chief
Dy Commrs regard-
-ing the same.

Submitted for orders

V.
27/10/96

Submitted 12/5/96

Re [redacted]
matter

Recd
30/8/97

This file may
be sent with
Survey Supdt
's his remis
-ks as ascertained
upon the proposed
additions are
finally sanctioned
Recd

Amildar's order of delivery of possession is sought to be disturbed. The Cultivator might have incurred large expenses on taking possession of the land. The Govt has therefore, under the Rules, wisely retained the power of interfering with such possession

2nd Asstt: Comr

States that the removal of clause 29 suggested in the Chitaldrug Dy Comr's letter seems necessary for the reasons therein stated.

exceptions, & if there is
a need for any change
the Amedar himself
can modify the general
system. Our rules give
very detailed instructions
for the guidance of Amildars
and if with such help
they cannot deal with
Darkasts in a satisfactory
manner the fault is of the
individual, & not of the
system. It may be pointed
out that Sec 58 of the Regulation
reserves to Govt the power
of making rules under that
section; & this is more
than the Bombay Code has
done - No rules seem to
have been made at all
in Bombay on this subject

It may, as well, be
pointed out here that there
is no reason for making
a distinction between appeals
admitted within the limit of
days under Sec 211 and
after that period is over
under Sec 212 of the Revenue
Code - Section 29 has no
reference to the time when

Para 29 continued

matters.

Under para 26 the grant by the Amildar is conditional and not absolute: A man taking possession under such a provisional grant, takes it subject to the liability of being dispossessed in the event of the grant being cancelled by the appellate or ~~revisional~~ revisional authority. If aggrieved by the Dy. Comrs. order, he has the right of either appealing to Govt. or of invoking its interference in revision. There is then no useful object to be gained by the retention of a rule which is sometimes prejudicial to the very person for whose benefit it is intended, ~~to~~ while at other times it either retards or frustrates the redress of grievances.

the para, when the Dy Comr can exercise executive powers under section 216 of the Code. In order to promote cultivation the Mukhtiarwar necessarily invested with the powers of giving possession to applicant. Any interference with this power will only retard cultivation. In Complicate cases such as contemplated in paras 5, 6, 8, 10, 12, 16, 18 and 24, of the rule referred to, the Mukhtiars are required always to obtain the orders of the Dy Comr. in disposing of the Darkhasts. It is therefore that in rare cases the

which the rule enjoins of a reference which will only call forth greater care and discrimination in the plaintiff's examination and when interfering with possession obtained under the authority of law the result must be viewed with favour and approbation

I find no authority stating for the proposition that possession is not to be given contemporaneously with the grant of the land or on the publication of the Parliament day or after the sale is confirmed which in Order 4012-9 [illegible] 31-8-93 R. 448 does not lay down any new rule. It is a new rule. It is not to be lightly worded — and the assumption that for two months after the appeal time the possession is not given does not seem to have the support of any rule. Sub rule 27 only directs that the Auctioneer should not "register the

Conditional upon revision, every grant of land would bee rendered precarious. In the Case of appeals, a definite period is prescribed and at the expiry of that period, the grant may bee supposed bee final. But not so in regard to revision for which no period is fixed. No grant of land would bee secure if it is to bee Conditional upon revision. It is true section 217 empowers grant of land bee revised but the power is an extraordinary one to bee exercised in special Cases. It would seem therefore that it is undesirable to introduce that element of uncertainty every possible Case as it would create in the minds of applicants an impression of doubt and uncertainty in the title to lands granted.

2. With reference to suggestion made in para 3, I beg to state that the insertion of the sentence is not necessary for, section 217 confers the needful power to cancel or modify order for registration of land.

(29) 3. With regard to para 4, I beg to state that it is desirable to modify and not to

to expunge para 29. It is doubtless inconvenient that in every case in which the land has been put in possession of the applicant, a reference to Government should be necessary. But it is equally clear that the power to disturb long possession would shake the confidence of the people. For instance an appeal against a grant of land may be admitted within the prescribed period but owing to delay, not unusual, the appeal may not be disposed of; meanwhile the applicant may have obtained the land and spent money in improving it and bringing it under cultivation. I would therefore suggest that if within one year after the delivery of possession, no reference should be necessary to Government, but after one year possession should not be disturbed without special order of Government. I would also suggest that para 29 should apply not only to order passed in appeal but also to those passed in revision under Section 217 of the

the appeal is admitted,
but has it: its ambit only
the question of succession-
If the [illegible] upon has been
given and by the party
type an appeal is [illegible]
the rule says that such
succession ^ and admitted right not to
be disturbed except with
the sanction of Govt.

The principal objection
urged against this rule
is that Govt is not being
allowed some voice in the
matter, while it will affect it when
disinclined to make
the required reference to
Govt. This disinclination
if used not to be limited as it
is except in [illegible] cases is
mental, and I dare say
perhaps that in any reasonable
hope that a [illegible] conscientious
Govt could not fail
bringing a matter with the
advice of Govt to conclusion
when he was convinced
that there was error or
miscarriage of justice has
occurred. The necessity

80

(14)

189

OFFICE OF THE DEWAN OF MYSORE
17775
22 JUN. 1895
R4975

From

The Deputy Commissioner,
~~Mysore~~ District.

Section LR
File No 18-94
Serial No 6

To Revenue Government
The ~~Chief~~ Secretary to the ~~Dewan~~ of Mysore.
Bangalore

Dated 19
Despatched 20 } June 1895
Received

Enclosures No.

No. 1446

Agreeing with the opinion of the Commissioner of the Chitaldroog District as to modifications in rule no XX of the Mysore Land Revenue Rules

---

R d 6-95
22
Collect all replies
25/6

Observations 23 (15)

1 As regards the amendments proposed to Paras 26 and 27 of Rule XX of the Mysore Land Revenue Rules:—

Paras 26 and 27 of Rule XX and Section 217 of the Code do not conflict with each other. Under the latter Section the powers of revision can be exercised by Deputy Commissioners in all cases referred to in Rule XX and under Section 216 of the Code, the Commissioner can at his discretion suspend the execution of the order of the Amildar. This includes the postponement of the registry as well as delivery of possession. Thus, what is omitted in the Rules is supplied by the Code. But I have no objection to the proposed amendments, if the same are not considered to be redundant.

2. As regards the removal proposed of para 29 of the Mysore Land Revenue Rules.—

This para is intended expressly to protect the rights of the cultivators after taking possession of the land, against

Para 27 continued

be expected to suffer the land to remain idle. He has to pay the assessment fixed for it, and he therefore proceeds after a reasonable time to spend labor and money upon it, so as to bring it under cultivation. If subsequently the Govt in accordance with the recommendation of the Deputy Comr. direct the disturbance of such possession, the consequence would be a loss to the person concerned.

All such inconvenience would be minimized by the abrogation of the rule which makes a reference to Govt indispensable. It is a matter for consideration whether the head of a District cannot safely be entrusted with the comparatively small power of himself dealing with such matters

hasty orders of executive officers. Much is
not gained by the removal of this Para,
when the by Commissioner can exercise
preventive powers under section 216 of
the Code. In order to promote cultivation
the Amildars are necessarily invested
with the powers of giving possession
to applicants. Any interference with
this power will only retard cultivation.
In complicated cases, such as contemplated
in Paras 5, 6, 8, 10, 12, 16, 18 & 24, of the rule
referred to, the Amildars are required
always to obtain the orders of the Deputy
Commissioner, in disposing of the
dark hasts. It is therefore that in
rare cases the Amildar's order of delivery
of possession is sought to be disturbed -
The cultivator may have incurred large
expenses on taking possession of the land -
The Government has, therefore under the
Rules, wisely retained the powers of
interfering with such possession.

Respectfully

Sub Division officer
Sagar

of the said para is called for as it will
apply to the few cases in which an appeal
may happen to be admitted after the appli-
cant has been put in possession after the
expiry of 3 months (i.e one month for appeal
and two months allowed by the rules) though
I am inclined to think that delivery of
possession ought not to be delayed so long
as by such a course applicants and pur-
chasers would often be deprived of the
opportunity of cultivating their lands in
proper season and the step might also not
infrequently prove detrimental to the inter-
ests of public revenue by the loss of Kandayam
accruing due during the period of suspense.

3. I would therefore beg to suggest
the advisability of the rules being amended
so as to empower the Amildari to give
possession to the applicants or purchasers
immediately the applications are granted
or the sales confirmed by him within his
jurisdiction conditionally on such posses-
sion being disturbed by the deputy com-
missioner without a reference to Gover
ment in the event of the Amildars deci-
sion being reversed by him in apeal or

revision

passed in revision under Section 217 of the Code

retained as it is. I state that the Asstt. Commissioners were consulted and that all are in favor of the alterations proposed.

1st Asstt. Comr.

The removal of clause 2 of Rule XX of the Mysore Land Revenue Rules as suggested by Mr. Sreenivas Iyengar, appears necessary.

Sub Division Officer Sagar

This para is intended expressly to protect the rights of the cultivators after taking possession of the land, against hasty orders of executive officers. Much is not gained by the removal of

. Sub-rule 26 lays down no rule or direction - It is simply a statement of what the law is under the C.P. Code. What is stated of appeals is also true of the revisional proceedings. The statement appears to be altogether unnecessary and redundant and they may be done away with altogether. But as long as it remains as a rule it remains as a rule until the pronouncement given in the appellate proceedings is apt to create a doubt in the minds of the Revenue Officers as to the extent of the Revenue Officer's liability to interference in revisional proceedings in which the law vests in several authorities. The addition is proposed to be made by the insertion of words

" or revision proceedings "

between the words " appeals " and " if any " - is harmless and may be useful & perhaps necessary also. The need for this was brought out in a recent case in Bangalore. This addition may be sanctioned.

revision, the sanction of Government to dispossess the occupant being only sought in the few cases in which an appeal is admitted or revision proceedings are instituted after the expiry of the period allowed for appeals by the Land Revenue Code. My views in the matter will also be found embodied in the marginally noted letters addressed by me to Government on the subject.

I have the honor to be
Sir,
your most obedient servant

for Deputy Commissioner
Kolar District

Encl

31

(General Serial No. 30)

REVENUE DEPARTMENT
Gl. No. 569
1895 - R 396
22 JUL. 95
DEWAN'S OFFICE.

From The Sub Division Officer Chickballapur.

To The Revenue Secretary to the Government of Mysore.

Dated 19th July. (18)

Despatched

Received

Enclosures—Number

Section

File No

Serial No 10

General No. 23

No. 7

His Reminder No 569-73 Rev 193 dated 11th Instant calling for early reply to Govt. Gro: No 1982-32 R 2851 dated 6th May last regarding the Chital droog Deputy Commissioner's letter suggesting certain Amendments to the Land Revenue Rules.

As the time to state that the Amendments suggested are necessary.

Narayanaswamy
Extra Asst Comr

Central Jail Press, Bangalore.—24-1-34.—1,402.

[illegible] has been granted. I
understand their word
[illegible] mean that the entries
in the Kilpwan Patrika
showed [illegible] notice
effected till the prescribed
period is over. But
under sub rule 22 the
land applied for, if
found to be one which
can be granted to the
first applicant without
calling it in a public
auction, should be granted
forthwith. If a sale
is held the Amedein
may enquire into
certain cases, but there
is no other provision
for hearing the purchaser
in possession. In the
absence of express
ordinary sequence of
events must be allowed
& there seems to be no
reason why the no
of occupation of the land.
So far therefore the
rules require no
change.

The [illegible]
[illegible] explanation.

Para 29 continued—

the result of a reference to Govt. But it is only in rare and exceptional cases, that the Dy Comr would feel disposed to trouble the Govt with such a reference. In other cases though the grantee may not be unassailable, there would naturally be a disinclination on his part to interfere. If a man does not take possession his grant is easily revokable, but if he enters upon possession the safety of his title under an improper grant is almost ensured Such a difference is, in my opinion, undesirable. Then again the delay which must necessarily arise by having to submit every such case for the orders of Govt. would often place the applicant or purchaser at a great disadvantage After taking possession he cannot long be

My views in the matter will also be found embodied in my letters Nos. 204/498 of 7-1-93, + Paper no 1
261/621 of 17-2-93, ⊕ Paper no 3
addressed by me to Govt on the subject

Sub Division officer
Chickballapur

The amendment suggested by the Dy Comr of ~~Chickballapur~~ Chitaldrug is necessary.

though the grant of a piece of land made improperly may not be disturbed under these rules, there is nothing to prevent the Deputy Commissioner from taking severe notice of the bad use of discretion by the Amildar or of improper conduct of the subordinate officials whenever the matter may come to his notice - If the successful Darkhastdar be also guilty of fraudulent conduct, there would be nothing to prevent the cancelment of the Registry.

For these reasons I think para. may be retained as it is -

I beg further to add that the Assistant Commissioners were consulted and are in favor of the alterations proposed by the Deputy Commissioner, Khatabdar, and

Opinion of the Superintendent of Revenue Survey

Vide letter No 200 of 15th September 1875

As regards Paras 26 & 27:

As Appendix D to the L. R. Rules clearly lays down the necessity of immediately putting the applicant or purchaser of unoccupied land in possession. I quite fail to see the use of Paras 26 & 27 of Rule XX which do not deal with possession at all, but only with the Registry.

The whole of the present difficulty if there really is any difficulty lies in the matter of possession.

There is no difficulty in altering the Registers, but there is a difficulty in ousting an applicant once authoritatively put in possession and I will allude to this when discussing Sub Rule 29. I am entirely in favor of Cancelling Sub Rules 26 & 27.

Should Govt. however decide to retain Sub Rules 26 & 27, I would add nothing to them as regards so indefinite and remote a contingency as the

not unusual the appeal may not be disposed of. Meanwhile, the applicant may have obtained the land & spent money in improving it & bringing it under cultivation. He therefore suggests that if, within one year after the delivery of possession, no reference should be necessary to Govt. but after one year possession should not be disturbed without special order of Govt. He also suggests that para 29 should apply not only to orders passed in appeal but also to those

litigation. It is also worthy of note that though the grant of a piece of land made improperly may not be disturbed under these rules, there is nothing to prevent the Govt from taking severe notice of the bad use of discretion by the Collector or of improper conduct of the subordinate officials whenever the matter may come to his notice. If the successful Darkhastdar be also guilty of fraudulent conduct there would be nothing to prevent the cancellement of the Registry. For these reasons he thinks para 29 may be

possession of the land, but still the same may be said of the other side, namely that he should lose his property through no fault of his own. Provision having therefore been made for the admission of such appeals after date I do not consider that para 29 requires any alteration as it is merely a proviso to section 212 of Chapter XIII, & the alteration of one word necessitates the alteration of other.

P.T.O.

the powers of interfering with such posses-
sion.

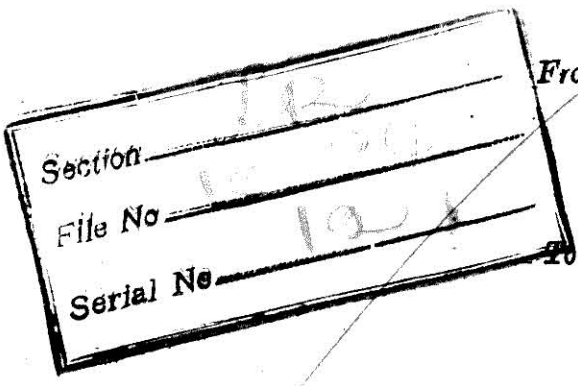
Signed G. Raganatha Rao.
Subdivision officer
Sagar.

"True copy"

Raghunatha Rao.
Subdivision officer
Sagar.

S.I.

50 Gen. 30.]



From The Sub-Division Office
French Rocks.

The Chief Secretary to the
Govt. of Mysore.

Dated 27/8

Despatched

Received

Enclosure No.

General No. 233
No.

Submitting his opinion on the letter dtd 21st April 1895 Suggesting certain amendments to the Land Rev Rules &c.

References to be marked.

SS

Para 29 continued

either for an absurd price or for the mere asking, as a sale might be impugned on the ground of material irregularity or there might be special circumstances which render a grant or sale peculiarly hard upon all the villagers generally, or upon one or more of them in particular. In these and other similar cases, irrespective of the question of possession, the Dy. Comr. ought to be able at once cancel the grant & order the land to be resold or otherwise disposed of. But the law as it stands, locks otherwise. His disapproval & cancellement of the grant notwithstanding, the Dy. Comr. is obliged to suffer the improper possession of the applicant or purchaser to continue pending the

or purchasers immediately the applications are granted or the sales confirmed by him within his jurisdiction conditionally on such possession being disturbed by the Dy. Comr. without reference to Govt. in the event of the Collector's decision being reversed by him in appeal or revision, the sanction of Government being only sought in the few cases in which an appeal is admitted or revision proceedings are instituted after the expiry of the period allowed for appeals by the Land Revenue Code. May 1

Opinion of the Superintendent of Revenue Quilacy

As regards para 29 continued

Sub Rule 29, "Provided that no
"guard against hasty dispossession
"before final decision, as defined
"in Section 218 of the Code, that
"is, while there was still a higher
"Court to appeal to."

"I quite agree with the views expressed by the 2nd Commissioner, viz: the Deputy Collector should not be
"I would suggest Sub Rule 29 invested in himself the power to grant "hasty dispossession".
being amended to read as
follows:—

"29: If in any case an appeal
is admitted after the
applicant or purchaser
has been put in possession
his possession shall
not be disturbed unless
the decision or order
has become final as
defined in Section 218
of the Land Revenue
Code."

"If the rule be worded as
"above, the final order will
"rest with Government if the
parties

Agree with the Chitaldrug Dy Comr's recommendation

Sub Division Officer, French Rocks.

The abrogation of clause 29 from rule XX, under the circumstances explained by the Dy Comr. of Chitaldrug deserves consideration.

States that it is desirable to modify and not to expunge para 29. It is doubtless inconvenient that in every case in which the land has been put in possession of the applicant a reference to Govt should be necessary. But it is equally clear that the power to disturb long possession would shake the confidence of the people. For instance, an appeal against a grant of land may be admitted within the prescribed period, but owing to delay not according to para 27, a limited interval has been provided for the prosecution of appeals, and it would be hard to make the effect of registry nugatory by making it subject to the result of an appeal admitted, so long after the prescribed time. It is very necessary to insist upon promptness & punctuality in the disposal of darkhast applications, and presentation and disposal of appeals. The amendment now proposed will only open a loophole for delay & unnecessary

to regard the striking out of para 29. I differ from the Chitaldrug Dy Comr. as Section 2/2 of Chapter XIII states that such appeals should only be admitted after the appellant has satisfied the authority to which he appeals, that he had sufficient cause for not presenting the appeal within such period. Such cases are certainly very rare & as the Dy. Comr. of Chitaldrug remarks, would act very hardly on the person who had been put in

Para 29 continued

of cases the applicant is put in possession before an appeal or revision proceeding could be admitted or disposed of. In such cases the D.C. may cancel the grant of sale, but he cannot go further & pass final orders regarding the disposal of the land.

A reference to Govt. in every such case is indispensable.

Whenever possession has not been given, the correction of irregularities or the redress of grievances would be prompt & easy. But not so in cases in which there has been a delivery of possession. One of two or more rival applicants may have been improperly preferred, or a land which ought to have been sold may have been given away without a sale either

We can exercise these powers, (1) on the complaint of party concerned & (2) on his own motion, without any such complaint. There is room as to the period within which the party has to move in the matter, but there is no similar provision in connection with D.C.'s powers. If this be left to him to exercise them whenever he likes, the hardship consequent on the same is too serious to require comment.

I am inclined to think that delivery of possession ought not to be delayed, so long as by such a course applicants and purchasers would often be deprived of the opportunity of cultivating their lands in proper season & the step might also not infrequently prove detrimental to the interests of public revenue by the loss of Kandayam accruing due during the period of delay. I would therefore suggest the advisability of the rules being amended so as to empower the Collectors to give possession to the applicants or

"calling for and examining Records
"under section 217 of the Code, which
"may occur at any time, for, so
"far as I can see there is no
"limit of time within which such
"records must be called for."

As regards Rule 29.

"Sub Rule 29 appears to me to be
"badly worded with reference to the
"aim and object which were in
"view. As now worded, it might
"be read as implying the sanction
"of Govt being obtained for dis-
"-possession before the case was
"heard on appeal, thus in a measure
"foreclosing Govt's own appellate
"powers. It might also be read
"as impairing the powers given
"to the Dy. Commrs under sections
"185 and 216 of the Code. This I am
"sure cannot have been the aim
"of Sub Rule 29 and yet any one
"reading it might come to that
"conclusion. The aim of Sub Rule

29

purchaser may be ensured as otherwise a door will be thrown open to fraud by rival parties to harass bona fide applicants or purchasers.

(Paper no 18)

after "admitting" & of "or revision held" after "admitted" in which case the rule would run as follows:-

When an appeal is admitted or a revision held it shall be the duty of the admitting or revising authority forthwith to send a notice to the Auildar &c --- he will understand that no appeal has been admitted or revision held & proceed to register -----.

If an appeal is admitted or revision held & notice of the same granted to the Auildar &c ---- .

(Paper 9 d)

explained by the Deputy Commissioner
of Chittaldoorg deserves consideration.

I have the honor to be
Sir,
Your most obedient Servant
J. Macdonald Lt
Sub Division Officer
French Rocks

Mysore continued

"parties appeal within the periods
"laid down in the Code, and the
"Rule will not conflict with any
"of the provisions of the Code
"itself."

- Submitted to Secretary

28/9/97

16/10/97

Para 29. "If in any case an appeal happens to be admitted after the applicant has been put in possession, his possession shall not be disturbed without an express order of Govt."

Suggestion.

Para 29 seems unnecessary and I therefore propose its removal. The pendency of an appeal much less of a revision proceeding does not prevent the applicant or purchaser from being at once put in possession. The effect only is deferred but not the delivery of possession as well. The result is that in all cases in which the Collector is himself competent to grant an application or to confirm a sale, permission to enter upon the land is given without waiting for orders from the appellate or revising authority. In other words, in the majority of the Dy Comrs of Chitaldrug is right in his remarks about rule XX of the Mysore Land Revenue Rules. But while giving the Dy Comrs or other appellate or revisional ~~author~~ authority the power to dispossess the party to whom possession has been awarded by the Collr or other authorities, it seems necessary to lay down some limitation as to the time within which the revisional authorities should exercise the same, Sec. 185 of the Code gives unlimited powers to the Dy. Comrs in the matter of setting aside sale of lands, held for default in payment of Govt demand. We

With regard to the proposal to remove para 29 of the Rule, as unnecessary, I doubt whether if, as ruled in Govt Pro. No 4042-9 & 448 dated 31st August 1893 the applicant or purchaser is not to be put in possession of the land for two months after the expiry of the period allowed for appeals by the Land Revenue Code, the removal of the said para is called for, as it will apply to the few cases in which an appeal may happen to be admitted, after the applicant has been put in possession, after the expiry of the 3 months (i.e. one month for appeal and 2 months allowed by the rules), though

agrees with the Chitaldrug Dy Comr ~~& Bellary Collr~~

& Refer para 7.

Agrees with the Chiefal Dy Comr's proposal.

Sub Division officer Erode Rocks.

The addition proposed may be made. But as neither in section 217 the Land Revenue Code nor in the additions the rule proposed, a provision made as to time within which the records of a Subordinate Revenue officer may be called for in revision I would beg to suggest that the revision time be fixed till the completion of the Mazuri jamabandy in order that the safety of the title of the applicant or purchaser

States that the insertion of the sentence is not necessary for section 217 confers the necessary power to cancel or modify order for registration of land.

In the line as vacated by him (vide his remarks against para 26) States that the addition is unnecessary.

1st Asstt. Comr

States that the alteration appears necessary.

Sub Division officer Sagar.

Vide his remarks as regards para 26.

2nd Asstt. Comr

States that the alteration seems necessary.

3rd Asstt. Comr

The insertion either of the sentence suggested by the Chiefal-dewy Dy Comr at the end of the para or of the words "a revision held" after "admitted" & of "or revising"

Agrees with the opinion expressed by the Chiefal-dewy Dy Comr

Rule 27 Continued

at the end of the para-
graph "Likewise when the record
of any grant or sale has
been called for under the
provisions of Sec. 217 of
the Code, the registry
shall be postponed
pending the result of
the examination of
such record."

to be redundant

2nd Asstt. Comr

The alteration of Clause 2 of Rule XX suggested by the Chief Secy to Govt Comrs seems necessary.

3rd Asstt. Comr

The Rule as it stands, by the omission of any provision for revision by the Dy Comrs of grants made by the Assistants under this Section seems to negative the powers of revision by the Dy Comrs. in this particular point. If the Dy Comrs has, under Section 21, of the Code, a power of revision over such grants the insertion of the word suggested by the Chief Secy Govt Comrs would seem requisite.

(Paper 19 d)

Para 27. "When an appeal is admitted it shall be the duty of the admitting authority forthwith to send a notice to the Amildar informing him of the fact. If no such intimation is received by the Amildar within two months after the expiry of the period allowed by the Code for appeals, he will understand that no appeal has been admitted, & proceed to register the person to whom the land has been granted as if no appeal has been made. If an appeal is admitted & notice of the same granted to the Amildar, he should await the orders of the appellate authority."

Suggestion.

Requires a somewhat similar treatment otherwise the tendency of a revision proceeding would be no bar to the registry being effected in the name of the applicant or purchaser. To remedy this defect, I propose the insertion of the following sentence at

Vide his opinion against para 29.

✓ The addition proposed seems desirable & may be adopted.

Sub Division officer Erikballapur.

The amendment suggested is necessary.

✓ Agrees with the Khatedary Dy. Comr's. proposal.

Memo No. 840.

The Regulation for the protection of Judicial, Revenue and other Public Officers is no doubt a great boon to them, but it is doubtful if the General public will view it with favor. As it is, it practically shuts out every suit against a public Officer. The law has to presume that every act done by him was done in good faith and the burden of proving want of the same being thus on the party asserting it, no Plaintiff will Succeed in his suit against an Officer. While enacting for the protection of its Servants, it is but fair that Government should not lose sight of the sufferings of its subjects - Say for instance that A a police Officer has a grudge against B a rich Patel. C complains that his daughter has been removed by D with certain jewels which belong to him and asks for an immediate search in the house

tion transferred legislative - lie with in retrenchment and Rev

But not so in regard to revision for which no period is fixed. No grant of land would be secure, if it is to be conditional upon revision. It is true Section 217 empowers grant of land being revised, but the power is an extraordinary one to be exercised in special cases. It would seem therefore that it is undesirable to introduce the element of uncertainty in every possible case as it would create in the minds of applicants an impression of doubt & uncertainty in the title for lands granted.

appears necessary.

Sub Division Officer of Sagar.

Paras 26 and 27 of Rule XX and Sec. 217 of the Code do not Conflict with each other. Under the latter section the powers of revision can be exercised by the Courts in all cases referred to in Rule XX & under Sec. 216 of the Code the Dy Comr can at his discretion suspend the execution of the order of the Amildar. This includes the postponement of the registry as well as delivery of possession. Thus what is omitted in the rules is supplied by the Code. But I have no objection to the proposed amendments, if the same are not considered to be

The Dy Comr agrees with the Dy Comr of the Chittaldrug Distt.

Sub Division officer Tarikere

The insertion of the words suggested by the Dy Comr of the Chitaldrug District is necessary and they may be inserted accordingly.

(Paper no. 20)

The suggestion made in para 2 of the Chitaldrug Dy Comr's letter appears to require further consideration. It will be seen that Sec. 217 authorises revision in all cases and without any limit of time. If therefore grant of land is to be conditional upon revision every grant of land would be rendered precarious. In the case of appeals, a definite period is prescribed and at the expiry of that period the grant may be relinquished to be final. But

It is worthy of consideration that there is no limit of time for revision by higher authority & it will be manifestly inconvenient to keep undisputed in abeyance the disposals of applicants by Tahsildars. I think it therefore undesirable to insert the words revision proceedings also in this rule. Any injustice or hardship resulting from the improper use of the Tahsildars discretion in any case may be rectified by a reference to Govt for exercise of their powers under sections 217 & 218.

1st Asstt Comr

The alteration suggested by the Dy Comr Chitaldrug District

Agrees with the proposal of the Chitaldrug Dy Comr

adjoining B's say also that hearing that the Police are on her track C's daughter removes herself to the Patel's. A then searches B's house apparently to discover the girl and the property stated to have been stolen, but really to satisfy his private grudge. The Patel has really suffered in mind and body by reason of the search. His dignity is lowered, yet he has no Judicial relief at all. This is not an extreme case. Instances of this kind are not uncommon. Except in the matter of drawing a line as to how far the plea of bona fides should protect a public Officer - in which matter it is no doubt open to objection. The Regulation is really a desideratum.

2. The Regulation proposed for amending the Land Revenue Code, contains valuable additions in the shape of Officers of the Irrigation Department being brought under the Code.

Para 26. "Applications granted by the Assistant are to be considered conditional pending the disposal of all appeals if any under Chapter XIII of the Code."

Suggestions.

This rule refers only to appeals and not to revision also. But Chapter VII of the Code quoted therein relates both to appeals and to proceedings in revision. The Dy. Comr is empowered by Sec. 217 to call for records and to pass such orders as he deems fit. This interference is thus as legal and necessary in revision as well as in appeal. I would therefore insert after "appeals" and before "if any" the words "or revision proceedings."

hide his opinion against para 29.

Sub Division officer Khasepet

The words "or revision proceedings" may be inserted as suggested in para 2 of the letter from the Deputy Commissioner of the Chitaldrug District.

(Please see paper no. 17)

The additions proposed by the Chitaldrug Deputy Comr to para 26 of the Land Revenue Rules XX seems desirable and may be adopted.

Sub division officer Chikballapur

The amendment suggested by the Dy Comr of the Chitaldrug Dt is necessary.

(Paper no. 18)

The Dy Comr agrees with the ~~recommendations~~ Chitaldrug Dy Comr.

Copy of 2nd Councillor's note on S. Suffolk's letter dtd 20.12.97 (SK-15)

3 S. Suffolk letter 2nd

I have already expressed — my doubt regarding the validity of Articles 26 & 27. I quite agree with the S. Suffolk view & think that these Articles may be cancelled. The modification of Article 29 is very sound & reasonable & answers all the objections taken by it. I would modify it as proposed — draft a short order & after effecting these changes & ~~add~~ submit

24/12/97

Draft
KK
27/12/97

SK
28/12/97

Recd & registered
3/1/98 6/1/98 Recd

he likes, the hardship consequent on the same is obvious to require comment.

5. Rule XXVII/XXX also seems to require reconsideration. On the death of a registered occupant the name of his principal heir is entered in the Registers. Say he has several undivided brothers and wants to cheat them. He resigns the holding absolutely or in favor of another person with a view to do them harm. There is nothing in the Code or the Rules at present making it imperative on the Taluk Authority to enquire whether or not the registered occupant is the sole occupant. On the other hand, Section 142 declares that the registered occupant is primarily responsible for the land revenue and it follows that since that occupant has tendered a relinquishment, the Amildar cannot but accept the

same and strike off his name in the books. Thus the undivided brothers of the registered occupant are left at a great disadvantage. It seems therefore advisable to declare that, notwithstanding Section 142, the Amildar should hold an enquiry as to the registered occupant being or not being the representative of the other members of the family on whose behalf the registry was made in his name under Rule XXV Clause 1. He should be empowered to reject the relinquishment when he finds that the same is in fraud of the rights of other parties.

6. In the Land Revenue Code provision has been made only for reservation of lands containing Shanidy or other valuable trees or jungle, which may be considered fit to be reserved for Forest or Excise purposes. Vide Rule XI. Besides, lands described in this Rule, lands valuable as grass lands or containing valuable food bearing

such cases the deputy Commissioner may
cancel the grant of Cultivation
for further and final orders
regarding the disposal of the land.
Suspension of Government in any
such case is undesirable. Whenever
forfeiture has not been given the
correction of irregularities or the
redress of grievances would be
prompt and easy. But not so
in cases in which time has been a
determining factor. One of two
or more rival applications may
have been improperly preferred; or
a land which might have been
sold may have been given away
without a sale either from ignorance
price or for the mere asking; or a
sale might be impugned on the
ground of material irregularity;
or there might be special circum-
stances which render a grant or
sale previously made from all
the villagers generally or from
one or more of them inequitable.
In these and other similar cases,
irrespective of the question of forfeiture
the Deputy Commissioner ought to be
able at once cancel the grant or
order

under the land to be worked or otherwise disposed of. But the Case will stand, Reis Attorney. His disapproval and Consent of the Grant notwithstanding, the Registry Commissioner is obliged to enquire the intended profession of the Applicant or Purchaser & continue pending the result of a reference to Government. But it is only in rare and exceptional Cases, that the Registry Commissioner would feel disposed to trouble the Government with such a reference. In other Cases though the Grant or Sale may not be unobtainable, there would naturally be a diminution in his Grant & interest. If a man does not take profession, his Grant is rarely cancelled but if he enters upon profession the Legality of his title under an Emigration Grant is almost annulled. Such a difference is, in my opinion undeniable. Then again, the delay which must necessarily arise by having to submit every such case for the orders of Government would

7

9

Irrigation Reports

Section LR
File No 18-94
Serial No 2

Read:—

Letter No 304 dated 21st April, 95 from the Deputy Commissioner of the Gutlong District, suggesting certain amendments in the Land Revenue Rules.

To be printed in Gazette — 6/

Directions. I/s 19821-32 dt 28.5.95

Direct that copies of the foregoing letter be forwarded to the Deputy Commissioners of the Districts and the Divisional Officers for opinion on the suggestions made therein by the Drigang Chulg. Deputy Commissioner.

Put up Proceedings

HH 4/5/95

HH 4/5/95

To Deputy Commissioners of Districts and Sub Divisional Officers.

HH 6/5/95

10 (1)

Gen. Serial No. 31.]

189 4-

OFFICE OF THE
1028.
29. MAY 1895
R4503
REGISTRAR OF TITLES

From The Registrar of Titles
Fremantle

To The Chief Secretary
& the Commissioner
of Crown Lands

Section LR
File No 18-94
Serial No 3

Dated 23rd May 1895

Despatched

Received

Enclosures No.

General No. 1035
No.

Govt Order No 135/21-32
R.2851
of the 6th May 1895.

Stating that the agreement
with the recommendations
of the Registry Committee
of Civil Service regarding
certain amendments to
the Land Revenue Rules

R. Nos 22/5/95
11 11

Said under reference. Approved, all the certificates mentioned and the fees received for endorsement thereon in G.O. No 3-1894 but since Sunday Revenue 1895

the early part of July, he will have by that time lost the benefit of the earlier or Munsar rains, which would have afforded him a good opportunity to clear his land of jungle, stones, &c., level the same wherever necessary and effect other preliminary improvements. I therefore consider that in such hard cases, though a Darkhastdar undertakes to pay Kandayam from the following year, he should be allowed if possible, to enter upon the land soon after the early rains set in, i.e. about March or so, and the provision should be made requiring the Amildars to represent matters like this for the orders of the Dy Commissioners without at once refusing the Darkhastdar the possession of the land, adhering strictly to the words of the rules.

8. Section 159 of the Land Revenue Code, dealing with the Question of forfeiture of land in respect of which

arrears are due and the Rules framed thereunder require in my humble opinion some amendment. The Dy Commissioner alone is now authorized to declare forfeiture of occupancy or any part of it, for which arrears are due. To obtain the Dy Commissioner's orders in each and every case irrespective of the amount of arrears or value of holding to be forfeited appear to be a practically difficult and inconvenient procedure. For the purpose of facilitating collection work, Amildars should be given powers in this respect to a limited extent. Such powers seem specially to be necessary since in the first instance the Revenue authorities are not authorized to proceed against the personal property of the defaulters.

(Signed) N. Narsimiengar
1st Sen. Asstt Commissioner
Bangalore District

2001035

Deputy Commissioner's Office,
Granton District.
Dated Edinburgh the 23rd
May 1895.

To

The Chief Secretary
to the Government of
Mysore

Sir

With reference to Government
order No. 1982-32 / R 2851 of the 6th instant,
calling for opinion on the sugges-
tion of the Deputy Commissioner
of the Gitaldrug District regarding
certain amendments to the Land
Revenue Rules, I beg to say that I
agree with the offered recommend-
ation.

I have the honor to be,

Sir

Your most obedient servant

Deputy Commissioner

12

Gen. Serial No. 31.]

OFFICE OF THE
4 - JUN. 1895
R4599
GOVT OF MYSORE

189

From The Deputy Commr
Nadiantham

Section L2 To
File No 18-94
Serial No 4
Dated 30th

The Secretary to the Government
Dewan of Mysore.

Despatched 31st May

Received

Enclosures—No.

General No. 755 } 1894-95
No.

Submitting opinion on the suggestions made by the Deputy Commr Chitaldroog District, regarding certain amendments to the Mysore Land Revenue Rules -

Mr. Sr
4/6

13

Deputy Commissioner's Office
Kadur District
Chikmagalur 30th May 35

From

The Deputy Commissioner
Kadur District

To

The Chief Secretary to the
Government of Mysore.

Sir,

With reference to Government Order
No 19821-32— R 2857 dated 6th instant
forwarding certain observations made
by the Deputy Commissioner, Chital
drug, regarding paras 26, 27 and 28
of Rule XI of the Mysore Land Re-
venue Rules and asking for my
opinion on the same, I have the honor
to inform you that as regards the
remarks on paras 26 and 27, namely,
that revision proceedings should be
included into appeals in these two paras,
I agree with the Deputy Commissioner;
but as regards the striking out of
para 29, I beg to differ with him, as
Section 212 of Chapter VIII states that
such appeals should only be admitted

Service establishment is employed or not. Therefore Section 44 and Government Proceedings No. 4894 of 10th September 1894 should be Cancelled.

Revenue
Rs. Section
Para 3.

Village Service Inam lands in a Taluk to which survey Settlement has been introduced and Pakka Potige settled should be removed from the Quit-rent or Inam register and to be treated as Government lands.

Section 37
44. —

No fee is charged at present either on account of attachment or sale of either moveable or immoveable property of the defaulters, although a scale of fees has been provided for.

In fact, by Section 44 no process fees can be levied unless process service establishment is entertained.

Camp Nelamangala.
12th August 95.

(Signed) N. Narsimhayar,
Asst. Commissioner
Bangalore District

"Copy"

W. Shaw Rice
for Dy. Commissioner.

after the expiration of that period, stating the authority to which he expects that he had sufficient cause for not presenting the appeal within such period. Instances are certainly very rare and it is the Deputy Commissioner's duty in obtaining remarks would not in any degree on the person who had been guilty of the omission, but in case of the case, but this same may be said of the other, viz, namely that he should have the opportunity through no fault of his own. Omission having therefore been made for the admission of such appeal after date, I do not consider that has required any alteration, as it is merely a proviso to Section 2 of Chapter III, and the alteration of one would necessitate the alteration of the other.

I have the honor to be

Sir

Your most obedient servant

Deputy Commissioner
Native Affairs

15

(13)

Gen. Serial No. 31.]

189

OFFICE OF THE
17334
15. JUN. 1895
DEWAN OF MYSORE

RC
15-6-95

From The deputy-Commissioner
Kaccan district.

To
Revenue
The Secretary to the Government
Bureau of Mysore.

Section LR
File No 43-96
Serial No 5

Dated 12th } June 1895.
Despatched
Received

Enclosures—No. 4

General No. 946 of 1894-95
No. 5.

Offering certain remarks on the suggestions made by the Commissioner, Chitaldroog district, regarding certain amendments to the Mysore Land Revenue Rules in

73

(23)

Gen. Serial No. 30.]

2081
1273

1897

Section
File No
Serial No

From The Supdt Mysore Rev Survey

To

The ~~Chief~~ Secretary to the Govt
~~Dewan~~ of Mysore.

Gl and Revenue Departts

Dated Bangalore 15th Septe 1897

Despatched

Received

Enclosures No. 1 file

General No. 200
No.

In reply to Docket No. 2616 of 6 R Instt
R.T. 131-95

SUBJECT.

Submitting his remarks on the subject of modifying Paras 26, 27 and 29 of Rule ~~XX~~ of the Mysore Land Revenue Rules.

References—(to be entered only in the Dewan's Office).

Nuda Boards 149

Subd Rep pub

Rev Dept 17-9-97

Office Note continued + subs 28/9 BB

Shown Rev Secretary with Office Note Continued for Orders VR 16/10/97

Rd & 29 Cr.

The allegation proposed the Survey Supdt must of course abrogate the necessity of a reference to Govt before effect is given to an appellate authority's order setting aside a sale & directing a re-sale. That authority will simply have to wait until the time fixed for appeal to the final appellate authority to wit: Govt, has expired & if no appeal has been preferred to Govt, he can proceed to carry out his own order which has become final. This seems sufficient ground for an improvement upon the Rule as it stands

C
18-10-97

Already effected

No 946
5

1/10

Deputy Commissioner's Office
Accra District,
Dated Accra 16th June 1905.

From

The Deputy Commissioner
Accra District.

To,

The Revenue Secretary to the
Government of Lagos.

Sir,

Adverting to Government Proceedings
No 1352/1-32 dated 6th May 1905 inviting
R 2851
the opinion of the Deputy Commissioners
and Civil Division Officers on the sug-
gestions made by the Deputy Commissioner
Central Accra District, regarding certain
Amendments to the Impost and Revenue
Rules, I have the honor to offer the
following remarks. The suggestion made
in para 2 of the Central Deputy Com-
missioners letter appears to me to
require further consideration. It
will lee seen that section 2, Ordinance
No 1 of 1904 gives Civil Jurisdiction in all Cases and without any
limit of time. If therefore grant of
land is to lee Conditional

19

the Code.

I have the honor to be

Sir,

Your most obedient Servant

Assistant

Deputy Commissioner

Kaccan District

No 280

Survey Superintendents Office

Bangalore 14th September

To

The Secretary to the
Government of Mysore
Rev and Revenue
Depa

Sir,

In returning your
File No 131 of 1895 received
your Docket No 2616 of th
R No 131-95
Instant on the subject of
-fying Fards 26, 27 and 2
Rule XX of the Mysore L
Revenue Rules as suggest
the Deputy Commissione
Chitaldroog, as well as
-stract of the opinions of
Deputy Commissioners
same subject, I have the
to offer the following rem

22

(15)

Gen. Serial No. 31.]

1895

OFFICE OF THE DEWAN OF MYSORE
17916
24. JUN. 1895
P5035

R- Hdh 24/6/95

From

The Sub Division Officer
Sagar

To

The Revenue Secretary
to the Government of
Mysore.

Section 22. Dated 20th June
File No 18-94 Despatched 21st
Serial No 17 Received

Enclosures No. 1

General No. 197
No.

With reference to Government Proceedings No 10821-32/2854 dated 6th ultimo, giving opinion as regards certain amendments proposed to the Revenue Rules

---

Has the honor to enclose herein his observations on the subject.

Respectfully
Sub Division Officer
Sagar.

SS Collect & submit
S.C. W.26/6

Gen. 31.]

OFFICE OF THE
18470
JUL. 95
1895 R 594
DEWAN OF MYSORE

Section LR
File No 18-94
Serial No 8

From The Deputy Commissioner
Kolar district

Revenue
The Secretary to the
Government ~~Dewan~~ of Mysore.

Dated 29th June 1895
Despatched 5th July 1895
Received
General No. 5743
No. 1574
Enclosure No.

Furnishing opinion on certain amendments to the Mysore Land Revenue Rules - - - - - - - - -

RR
6/7/95
SS Complete
Applicant
further
action
7/7/95

References quoted in this
Enclosure
JMV

No Deputy Commissioner's Office
Kolar District
Dated 29th June 1925.

To
The Revenue Secretary to the
Government of Mysore

Sir,

With reference to Government proceedings No: 1982-32 / R. 285 / dated 6th May 1925 forwarding for opinion, copy of a letter from the Chitaldrug Deputy-Commissioner regarding certain amendments to the Mysore Land Revenue Rules, I have the honour to state that the additions proposed by that Officer to paras 26 and 27 of Rule XX seem desirable and may be adopted.

2 With regard to the Deputy Commissioner's proposal to remove para 29 of the Rules as unnecessary, I beg to submit, if we refer to Government proceedings No: 1982-32 / R. 285 dated 3rd August 1925 the applicant or purchaser is not to be put in possession of the land for two months after the expiry of the period allowed for appeals by the Land Revenue Code, the removal of

29

(General Serial No. 3)

REVENUE DEPARTMENT
Gl. No. 567
No. C393
22 JUL 95
1895
DEWAN'S OFFICE

Rev

Ref. completed
22/7/95

Section LD
File No 18-94
Serial No 9

From The Sub division officer
Closed.

To The Revenue Secretary
to the Government of
the Province.

Dated 21st July 1895

Despatched 26-7-95

Received

Enclosures—Number Nil

General No. 59.
No.

Referring to his No. 555-
-73 dated 11th April 1893
Proceedings No: 1894-95 dated
R 2867
6th Jan. 1895, I do the honour
to state that undersigned
is of opinion that the
roads as per sketch proceedings
may be inserted as suggested
in para 2 of the letter from
the Chittoor Deputy
Commissioner.

(2) As regards the question
of disturbance of possession
once obtained, the two

Central Jail Press, Bangalore.—24-1-94.—1,402.

Months time prescribed, within which an appeal should be made or petition proceedings Commenced, is a very wholesome check upon the dilatory manner in which such matters are disposed of. No registry is made before the Expiration of this time and any Exception obtained before registry need not be recognized But when registry is once made and Exception given after these two months, it is a desirable provision that the Court of the land should then be regarded as final, subject only to interference by Government which as the Deputy Commissioner remarks, need only be very rare.

Magandal

Sub division officer
of Cherpel

32 General Series

From

The Revenue Department
Shimoga District

To

The Chief Secretary to the Revenue Department
of Mysore.

Section L12
File No 18—21
Serial No 11

Dated 24th July 1895.

Despatched

Received

Enclosures No. 4 with 2 encls

General No. 83
No. 67

In reference to Government
Proceedings No. RRC-32 dated
R 2857
6th May 1895, submitting Sjt
Ex to the alteration of the
Mysore Land Revenue Rules

Rev

Ref - Have all the Supts
been rec'd - Rem.
- 31/7/95 -

33

(9)

No. 65 Encl: No 1 with 2 encls:
67

Shillong Station
Deputy Commissioner's Office
Shillong 21st July 1905

To

The Revenue Secretary to the
Government of Assam.

Sir,

With reference to Government Proceedings No. 9921-32 dated 5th Aug 1895, I have the honor to state as follows

Para 26. It is worthy of consideration that there is no limit of time for revision by higher authority, and it will be manifestly inconvenient in abeyance to keep in indefinitely the disposal of applications by subordinates. I think it therefore undesirable to insert the words, revision proceedings also in this rule -

Any injustice or hardship resulting from the inspector's

the Auditor's discretion in any case may be rectified by a reference to Government for exercise of their powers under Sections 2, 7 and 2(5).

Corrections of para 2. In the view advocated by me the proposed addition is unnecessary.

Para 29. According to para 29 a liberal interval has been provided for the presentation of appeals, and it would be fair to make the effect of registry negatory by making it subject to the result of an appeal admitted so long after the prescribed time. It is very necessary to insist upon promptness and punctuality in the disposal of departmental appeals as to the presentation and disposal of appeals. The amendment now proposed will only give a handle for delay and unnecessary litigation.

It is also worthy of note that

Telegram General No. 28

189

From

To

Dated 6th June 1895

Despatched

Received

General No. 105

No.

Enclosures—Number

His docket No: 247)

of the 25th ultimo,

forwarding for

opinion copy of the

Childbirth Deputy

Commissioner's letter No:

504 of the 21st April

706

1895, to the Government received with proceedings No: 19821-32 of 6th May last

---

"I have the honor to state that in the opinion of the undersigned the alterations to clauses 26 and 27, and the removal of clause 29 to Rule IX of the Mysore Land Revenue Rules as suggested by Mr. Srinivasaiengar appear necessary.

R. Rannel Barr
1st Assistant Commissioner

para 26 lays down no rule
or direction. It is simply
a statement of what the
the law is under the Code.
What is stated of appeals
is also true of revision pro-
-ceedings. Govt are therefore
of opinion that the retention
of paras 26 & 27 is unnecessary
and accordingly direct
their cancellation.

2. As regards para 29,
Govt observe that it is an
important and wholesome
rule, framed with the
object of preventing breach of peace
disputes when possession has been
given to the individual
concerned, it should not
be disturbed except with
the sanction of Govt. If
every appellate authority -
a Dy Commr, a Sub divisn
officer, & an Asstt Commr -
goes on changing possession
till the matter comes up
before Government, it is

possible that there may 85
be not less than three such
changes. This is highly
prejudicial not only to the
parties concerned but also to
the proper development
of cultivation. Further,
there is no reason to make a
distinction between appeals
admitted under Section 211
within the prescribed time,
and those admitted after
that period under Section
212, as para 29 has no
reference to the time when
the appeal is admitted. ~~The~~
~~aim of the rule is~~ (merely) ~~to prevent~~
~~hasty and frequent dis-~~
~~possession~~. Govt are (not) therefore
disposed to cancel the rule altogether,
but agree with the Supdt
of Revenue Survey that
it is not properly worded & requires
~~and approve of the~~ modification in the manner
~~modified~~: ~~rule~~ Suggested
by him, which is very ~~sound~~ and reasonable & very
and answers all objections. able & la
3. The following notification

D 525-6-95

(General Serial No. 28.)

1895

From

To

Dated

Despatched June/95

Received

General No. 441 189
No.

Enclosures—Number

40

Province Police. Ask the Town to forward copy of the correspondence on the subject.

Postmaster

Sub Divisional Officer

Sagar.

G. G.

Observations 41 19

1 As regards the amendments proposed to paras 26 and 27 of Rule XX of the Mysore Land Revenue Rules: —

Paras 26 and 27 of Rule XX and Section 217 of the Code do not conflict with each other. Under the latter Section the power of revision can be exercised by Deputy Commissioners in all cases referred to in Rule XX, and under Section 216 of the Code, the Deputy Commissioner can at his discretion suspend the execution of the order of the amil-dar. This includes the postponement of the registry as well as delivery of possession. Thus what is omitted in the Rules is supplied by the Code. But I have no objection ~~to~~ to the proposed amendments, if the same are not considered to be redundant.

2. As regards the removal proposed of Para 29 of the Mysore Land Revenue Rules, Para ~~29~~ of the Code is intended expressly to

protect the rights of the cultivators after taking possession of the land, against hasty orders of executive officers. Much is not gained by the removal of this Para, when the Dy Commissioner can exercise preventive powers under Section 216 of the Code. In order to promote cultivation the Amildars are necessarily invested with the powers of giving possession to applicants. Any interference with this power will only retard cultivation. In complicate cases, such as contemplated in paras 5, 6, 8, 10, 12, 16, 18, and 24 of the rule referred to, the Amildars are required always to obtain the orders of the deputy Commissioner in disposing of the darkhasts. It is therefore that in rare cases, the Amildars order of delivery of possession is sought to be disturbed. The cultivator may have incurred large expenses on taking possession of the land. The Government has therefore, under the Rules, wisely retained

[Serial No. 28.]

From The Resident Magistrate
Lusaka District

To The Administrator
Salisbury

Dated 4th June 1895

Despatched

Received 10
Rgd 10

General No. 145 } 1894.95
No.

Enclosures—Number 5

Re Circular No 2/77
of the 25th ultimo forwarding for Native
Copy of Instructions &
Native letter &c &c
of the 2nd April 1895.

With reference to the

45

above, has the honor to state that the alterations of clauses 26 and 27 and the removal of clause 28 of Rule XI of the Inland Revenue Rules suggested by the Australasian Association have been accepted as necessary for the reasons therein stated.

W. Rushworth
2nd Asst Secretary

(General Serial No. [illegible])

From The 2nd Assistant Commr
Shimoga District

To The Deputy Commissioner
Shimoga District

Dated 30th May 95.

Despatched

Received 31/5/95

General No. 63.

No.

Enclosures No. one.

His circular No 2477

forwarding Government Pro:

No 19821-32 / R 2851 dated 6th May 95.

for opinion.

In reply to the above

has the honor to enclose

the opinion of the under signed

on

eneral Jail Press, Bangalore.—8-9-94.—20,254.

47

On the suggestions made by the Deputy Commissioner

Colchester District

A W Thomas

3rd Assistant Commissioner

Shimoga District

bl

48

The opinion of the 2nd Assistant Commissioner Shimoga District on the suggestion made by the Deputy Commissioner, Chitaldrug District, regarding certain amendments to the Mysore Land Revenue Rules -

1. Para 26 of the Rules - As it stands by the omission of any provision for revision by the Deputy Commissioner of grants made by the Amildar under this section, seems to negative the power of revision of the Deputy Commissioner in this particular point of the Deputy Commissioner has under section 21 of the Code a power of revision over such grants the insertion of the words suggested by the Chitaldrug Deputy Commissioner certainly seems requisite.

2. Para 27 of the Rules - With the same proviso as that applied above the insertion either of the sentence suggested by the Chitaldrug Deputy Commr. at the end of the para, or of the words "or revision held" after "admitted" and of "or revising" after

"admitting" and of "or revision held" after "admitted."

In which case the rule would run as follows:-

"When an appeal is admitted or a revision held, it shall be the duty of the admitting or revising authority forthwith to send a notice to the Builder &c..... he will understand that no appeal has been admitted or revision held and proceed to register ..... If an appeal is admitted or revision held and notice of the same granted to the Builder &c.....

3. An alternative to the suggestion made in para 4 by the Calculating Deputy Commissioner would seem to be the withholding of delivery of possession until the expiry of the time allotted by para 27 for the receipt of intimation of revision or appeal by the Builder.

But if it is considered that the head of the District can be entrusted with the power suggested by the Calculating Deputy Commissioner, his suggestion of removing para 29 seems the best solution of the difficulty.

3rd Assistant Commissioner
Shimoga District

No 233

51 Sub Division office
French Rocks
Dated 27th August 1895

Ref:
Are the replies complete?
21/8/1895

From,

P. Panchanatha Rao Esq^r
Sub Division officer
French Rocks

To

The Revenue Secretary
to the Government of
Mysore

Sir,

I have the honor to acknowledge the receipt of Government Proceedings No 7821-32 / R2857 dated 6th May 1895 inviting opinion on the Chittaldroog Deputy Commissioner's letter No 804 dated 21st April 1895 suggesting certain amendments to the Land Revenue Rules and in reply beg to submit as follows:—

Para 2. The insertion of the words

suggested by the Deputy Commissioner is necessary and they may be inserted accordingly.

(27)

Para 3.

The addition proposed may be made. But as neither in Section 217 of the Land Revenue Code nor in the addition to the rule proposed is provision made as to time within which the records of a subordinate Revenue officer may be called for in revision I would beg to suggest that the revision time be fixed till the completion of the Huzur Jamabandi in order that the safety of the title of the applicants or purchaser may be ensured, as otherwise a door will be thrown open to fraud by rival parties to harass bonafide applicants or purchasers.

(28)

Para 4.

The abrogation of clause 2a from rule XX under the circum-

stances

Ref. Secl
Rev
27/2
27/2/96

No. Reference are invited to Rep. for the
year 95 from all the Dist. Offices to Cir. No 1921-32 & 1. 5. 95
R. 2851
Sec'l
2/3.

Section LM
File No 12-96
Serial No 13

54
Gen. 31

REVENUE DEPARTMENT
Gl. No. 2332
R. No. 4457
1895-96 FEB 05
DEWAN'S OFFICE

From The Dy Commissioner
Bangalore District.

To The Secretary to the Govt
of Mysore,
Rev. Department,

Dated 24th February 1896.
Despatched 27th 96
Received 27th 96

21

General No.
D No. 805

Enclosure No. 1

The Government Proceedings
No. 19821-32 dated 6th May
R. 2851
1895 and the Secretary's
No. 93-99 dated 7th
G. 2197
December 1895, calling for
opinion on the draft
regulation to amend
the Mysore Land Revenue
Code and that for the
protection of Judicial,
Police, Revenue and other
Public Officers.

Adverting to the above

(X) This has nothing to do
with the proposed question -
The first the legislature
Dept -
2/3
3/3/96

Draft Regulation
should be received
with the
Secretary

Has the honor to submit the enclosed copy of Memo No 840 dated 12th August 1895 from the Ist General Assistant Commissioner, Bangalore District, and to state that the Undersigned has already submitted his views while in the Hassan District.

Lt. Shannon Rice
Inv. Dy Commissioner

This radiation will also include
Officers employed in connection with
the supply of water to the Public
Such as have been entertained in
the Towns of Mysore and Kolar
and will shortly be entertained
in Bangalore also. A very important
class of Officers is thus brought under
the Code Now, and it seems therefore
necessary to define, if not in specific
terms, at least in general characters
what their duties are to be. There
is only a provision in the Bill for
bringing suits in the matter of
claims relating to the supply of water,
but there is nothing, not only in
this Bill but also in any other
written or unwritten law, as to
regulate the said supply, Water for
drinking and washing purposes is
as important as water for irrigation
Complaints as regards the one require
as much legislation as those regarding
the other. Like the Sheristas
Patels Shanbogues and Shekdars re-
-spectively exercise initial jurisdiction

in the matter of water supply for irrigation, there is no law to define their powers, and the saving of suits as against them will only make them all powerful, for there is nothing to define how far they should proceed and what point they should not go beyond. The Officers of the water supply department in the towns will also be very powerful, if no regulation to limit their functions is laid down.

3. In this connection it might also be observed that a provision similar to that of right of way provided for in section 74 Land Revenue Code is necessary, as regards right of taking an irrigation Channel. Say a person held a land through which can by means a channel to irrigate another land. The former and another person takes it up. He should be told that he has no right to close up

up the channel. Again say that a person held two lands through one of which, one channel to irrigate the other. Supposing he keeps the one on which the channel runs and relinquishes the other. It must not be said that a person who subsequently takes up the latter land should have no right to have the channel through the land reclaimed by the first mentioned person. Similarly, the right to the water which by manual overflows one wet land and irrigates the adjoining wetlands should be preserved. Very often the holder of the first land obstructs flow of water from his land to the other land, when he raises sugarcane or garden crop. Such cases require speedy remedy and the law should provide for the same.

4. The Dy. Commissioner of Chitaldroog is right in his remarks about rule XX of the Mysore Land Revenue Rules. But while giving the Dy

Para 28 27 29

Commissioner or other Appellate or Revisional Authority the power to dispossess the party to whom possession has been awarded by the Court or other Authorities, it seems necessary to lay down some limitation as to the time within which the Revisional Authorities should exercise the same. Section 155 of the Code gives unlimited powers to the Dy. Commissioner in the matter of setting aside Sales of Lands held for default in payment of Government demand. He can exercise these powers:-

(1) On the Complaint of party concerned and

(2) On his own motion without any such complaint.

There is law as to the period within which the party has to move in the matter, but there is no similar provision in connection with Dy. Commissioners powers. If it is left to him to exercise them whenever

bearing trees realizing more income than their assessment and lands whose cultivation would be prejudicial to the convenience of villages or towns respectively, taken of their situation with reference to village, town or tank &c whether assessed or not may have to be returned. There is no express or implied provision in the Code or Rule authorizing the Dy Commissioner to undertake such revaluation. Such provision is therefore, I think, necessary.

7. Some landholders seem to entertain an impression that a land applied for cultivation should not be given possession of till the beginning of the year for which the Darkhastdar undertakes to pay the assessment or Kandayam thereof - for instance, a man applies for an extensive assessed land not hitherto cultivated or lying fallow for a long time, say, two or three

months before the end of the year, undertaking to pay the Kandayam from the next year. According to the Government Proceedings No. 4724-31 R. T. 290-92 dated 10th September 1893, he cannot be put in possession of the land till after the commencement of the following year i.e. for which he has undertaken to pay the Kandayam, unless he agrees to pay it for the year during which the application is made, though he had little or no time to realize any benefit from the land or improvement in any way. Formerly the Official year closed by the end of March, for the sake of better facilitating collection of revenue and affording some relief to the Ryots by giving them some time to sell their crops to their advantage before being called upon to pay the Kandayam, the Official year was extended to the end of June. If the Patta after is put in possession of the land

Amendments required to be made in Mysore Land Revenue Rules.

Section VIII Para 8. Salary of Circuit Amins's pay — should be raised to Rs 20/, and they must be required to furnish security to the extent of Rs 250/. each.

Section XII. When pasturage land allowed for a village is found insufficient and the neighbouring village contains more than what is required the former village cattle should be allowed free access to the pasturage of the latter village as a special case.

Section XX Para 1. Lands relinquished within the three preceding years should generally be given to the first applicant without sale, if there are no valuable trees for.

Section XX Para 23. If the purchaser does not pay 1/4th of the purchased money as deposit it is now provided that the property should forthwith be again put up and sold, but no penal clause is provided for. It is therefore necessary that the deposit amount should be secured.

from the defaulter and interest of land, become on the subsequent sale to be at his risk.

A reasonable fee should be fixed for subdivision of occupied lands when applied for by the holders. Camp Celemangala. (Signed) A. Pennington Dated 12th August/95. Asst. Dist. Commissioner Bangalore District

Section XXVII.

No rules have been framed by the Government, regarding the disposal of building sites. The existing practice on the matter varies in different districts. The Amildars should be empowered to give away building sites to the Agricultural class upto a certain amount without sale. This opinion has been endorsed by the Revenue in the last-year's Representative Assembly.

Land Revenue Code. Section 135.

If the issue of demand notice is not to be discontinued, fee must be levied, as a penalty whether proceed

Land Revenue Rules. Section 35- Para 3.

Draft as per o
1897 (22)

71

From

The Secretary to the
Government of Mysore,
Gen. & Rev. Depts.

Section L R
File No 18-96
Serial No 14

To The Supdt. of Revenue Surve
in Mysore.

Dated 6-9-97
Despatched
Received
General No. 2666
97 No. 131-95
Enclosure No. 1 file & book

In forwarding herewith the
office file No. 131 of 1895-96
on the Subject of the modi
-fications of paras 26, 27 &
29 of Rule XX of the L. R.
Rules, suggested by the Dy.
Commr. Chitaldrug District,
together with this office Mem
an abstract of
containing the opinions of
the Dy. Commrs. of the other
Districts, ~~and the views of~~
~~Govt thereon,~~ has the hono
to request the Superintende
of

72

of Revenue Surney to be
so good as to favour Court
with his views in the
matter.

By order

2nd order 3/9/97

3/9/97 3/9/97 Secretary.

2 ~~Court of~~ Court of will would also
serve that it is a mistake to
suppose that in Bombay no
Rules have been framed under
Section 60 of the Bombay Code
corresponding with Section 58
of the Ellpas Code. Bombay
Rule 3 (1) says that
"the occupancy of land granted
by the Collector for agricul-
tural purposes only shall
be granted for terms of one
year only" and the practice
prevalent in cases of alienation
for unoccupied land is
laid down in the Rules
generally; I do not by any
means advocate the adoption
of

of Home Rule in Ethiopia,
although it would apparently
meet the present difficulty,
because it might create part
of confidence. What is wanted
however is, that portion of the
Boundary-Agreement which puts
an applicant in immediate
possession meet the preliminaries
culminating in the issue of
Appendix E (corresponding to
Appendix D of the ethiopian Land
Revenue Rules) not completed
and which has no Executive-
-ary measures or delay of
registry against change of
appeal or revision of Pro-
-ceedings, or Civil Courts, and

more

have proposed to be laid down in Order 26 and 27 of the present Rule ~~II~~ and under discussion. There is, in fact, in Bombay, no difficulty in the Court taking its cause list in succession being regained and Registry altered in accordance with the decision of any competent Court.

3 — To one will question the necessity indeed obsolescence of the Rules dealing with the necessity of immediately fixing the obligation of personal bail in succession The being the case, it will fail to see the use of Order 26 and 27 of Rule ~~II~~ which do not deal with succession at all. But only with

with Registry. The whole of the present difficulty, if there really is any difficulty, lies in the matter of possession. There is no difficulty in altering the Register but there is no difficulty in getting an efficient deed authentically, but in possession, and I will allude to this when discussing Rule 23. Now entirely in favour of cancelling Rule Rules 26 and 27.

4 Should Government, however, decide to retain Rules 26 and 27, I would add nothing to them as required is indefinite and remote a contingency as the calling for and examining Records under Section 27 of

of the Code which may occur at any time for so far as I can see, there is no limit of time within which such Recommendation may be called for.

It will thus be necessary to me to be duly versed with reference to the various subjects which may be mentioned. It may sometimes be necessary to employ the services of engineering advice for the investigation before the Commissioners can be advised as to whether there is a reasonable probability of the Commissioners making a favorable Recommendation under Sections 73 and 76 of the Code. This I am well convinced has been the

the aim of Sub Rule 2 and yet any one reading it might come to that conclusion. The aim of Sub Rule 2 of State it was to guard against hasty discussion before final decision as defined in Section 2(3) of the Code that is while there was still a higher Court to appeal to. Quite agree with the views expressed by the 2nd Councillor regarding the salutary nature of Sub Rule 2 and the various conveniences involved in hasty and perhaps frequent discussion. I would suggest that Sub Rule 2 as being removed and to read as follows.

2) If in any case an appeal is admitted after the expiration

application for leave to appeal has been duly filed in accordance with this section, shall not be distributed unless the decision or order has become final as defined in section 2.02 of the Local Rules Code.

(c) If the Rule is made or where the final order will result with agreement of the parties appeal within the period of time allowed in the Code and the Rule will not conflict with any of the provisions of the Code itself.

I have the honor to be

Sir,

Your most obedient Servant

W. Jeune

Chief Clerk Supreme Court

Barbados

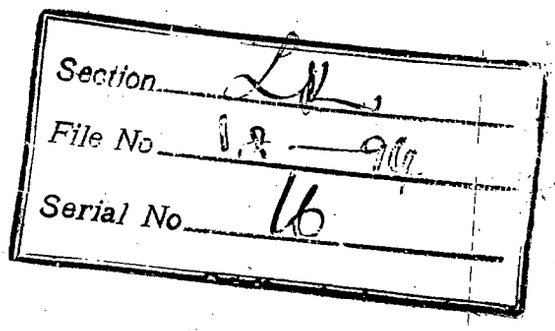
82 Draft papers circulars

24

Read:—

Print in Extenso

(1) Letter No 804/706 dated 1st April 1895 from the Dy Comm^r, Chittaldroog District Suggesting the modification of paras 26 and 27 and the cancellation of para 29 of Rule XX of the Mysore Land Revenue Rules.



Called for 1895 No 1-1-95

attached 19/1/95

(2) Also:— The following communications from the other Sub Division officers Dy Comm^rs ~~expressing their opinion~~ on the subject ~~above suggestion~~

(1) No 355 27.5.95 D.C. Tumkur.
(2) " 755 " 30.5.95 D.C. Kadur.
(3) " 940 " 11.6.95 D.C. Hassan.
(4) " 1446 " 19.6.95 D.C. Mysore.
(5) " 197 " 20.6.95 Sub Dy off^r Sagar.
(6) " 5743/1574 " 29.6.95 D.C. Kolar.
(7) " 69 " 18.7.95 Sub Dy off^r, Bangalore
(8) " 27 " 19.7.95 Do—Do. Chickballapur.
(9) " 83/67 " 24.7.95 D.C. Shimoga.
(10) 233 " 27.8.95 Sub Dy off^r French Rocks
(11) 305 " 24.2.96 D.C. Bangalore.

To be printed in extenso.

(3) Letter No 203 dated 15th September 1897 from the Superintendent of Revenue

Survey in Mysore (Engg. Section) with reference to the above, the cancellation of paras 26 and 27 and modification of para 29 of Rule XX of the Land Revenue Rules.

Informing his remarks on the Report.

Order thereon :— No 7002-7100 dt 31-1-98.
H.F. 151-95

Government agree with the Supdt of Revenue Survey in Mysore that the necessity of paras 26 and 27 of Rule XX is not apparent, as they deal only with the registry of the land in the name of the applicant or purchaser as the case may be, and not with possession of the land which is given immediately after the prescribed formalities are observed, & that there is no difficulty in altering the registry but there is a difficulty in ousting a person once authoritatively put in possession. Further,

80

cancelling paras 2 b and 29 and modifying para 29 will be published in the Gazette.

under rule XX of the L. Rev. Rules

No 7101 dt 31-1-98.
No-121-95-

Notification

The Govt of Kly are pleased to direct that paras 2 b and 29 of Rule XX of the Kly ceiling Rev. Rules issued under Notfn: No. 1540 dt 22nd July 1990 be cancelled, & that para 29 of the same rule be modified as follows: —

(1) For the words "happen to be" in the 1st line substitute "is".

(2) In the same line, between the words "applicant" and "has", insert the words "or purchaser".

(3) In the 2nd line, substitute "shall" for "should".

(4) In the same line, for the words "without an express

"order of Govt", Substitute
the clause "unless the
"decision or order has become
"final as defined in Section
"218 of the Land Revenue
"Code".

2. Para 2 modified as
above will read as follows:—

" If in any case an ap-
-peal is admitted after
the applicant or purchaser
has been put in possession,
his possession shall not
be disturbed unless the
decision or order has be-
-come final as defined
in Section 218 of the Land
Revenue Code".

Print

Secretary

11/1/98

To.

The Secretary to Government
" Dy Commrs of Districts.

RL 7 Mu
18/1/98

READ THE FOLLOWING:—

(1) Letter No. 804—706, dated 21st April 1895, from the Deputy Commissioner, Chitaldrug District—

I have the honor to submit that, in my humble opinion, Rule XX of the Mysore Land Revenue Rules requires certain modifications in the manner hereinafter mentioned.

2. Para 26 of this rule refers only to appeals and not to revision also. But Chapter XIII of the Code quoted therein relates both to appeals and to proceedings in revision. The Deputy Commissioner is empowered by Section 217 to call for records and to pass such orders as he deems fit. His interference is thus as legal and necessary in revision as in appeal. I would, therefore, insert after "appeals" and before "if any" the words "or revision proceedings."

3. Para 27 requires a somewhat similar treatment. Otherwise, the pendency of a revision proceeding would be no bar to the registry being effected in the name of the applicant or purchaser. To remedy this defect, I beg to propose the insertion of the following sentence at the end of this para. "Likewise when the record of any grant or sale has been called for under the provisions of Section 217 of the Code, the registry should be postponed pending the result of the examination of such record."

4. Para 29 seems unnecessary, and I therefore beg to propose its removal. The pendency of an appeal, much less of a revision proceeding, does not prevent an applicant or purchaser from being at once put in possession. The registry alone is deferred but not the delivery of possession as well. The result is that in all cases in which the Amildar is himself competent to grant an application or to confirm a sale, permission to enter upon the land is given without waiting for orders from the appellate or revising authority. In other words, in the majority of cases, the applicant is put in possession before an appeal or revision proceeding could be admitted or disposed of. In such cases, the Deputy Commissioner may cancel the grant of sale but he cannot go further and pass final orders regarding the disposal of the land. A reference to Government in every such case is indispensable. Whenever possession has not been given the correction of irregularities or the redress of grievances would be prompt and easy. But not so in cases in which there has been a delivery of possession. One of two or more rival applicants may have been improperly preferred; or a land which ought to have been sold may have been given away without a sale either for an upset price or for the mere asking; or a sale might be impugned on the ground of material irregularity; or there might be special circumstances which render a grant or sale peculiarly hard upon all the villagers generally or upon one or more of them in particular. In these and other similar cases, irrespective of the question of possession, the Deputy Commissioner ought to be able to at once cancel the grant or order the land to be re-sold or otherwise disposed of. But the law as it stands holds otherwise. His disapproval and cancelment of the grant notwithstanding, the Deputy Commissioner is obliged to suffer the improper possession of the applicant or purchaser to continue pending the result of a reference to Government. But it is only in rare and exceptional cases that the Deputy Commissioner would feel disposed to trouble the Government with such a reference. In other cases, though the grant or sale may not be unassailable, there would naturally be a disinclination on his part to interfere. If a man does not take possession his grant is easily revocable, but if he enters upon possession the safety of his title under an improper grant is almost ensured. Such a difference is in my opinion undesirable. Then again, the delay which must necessarily arise by having to submit every such case for the orders of Government would often place the applicant or purchaser at a great disadvantage. After taking possession, he cannot long be expected to suffer the land to remain idle. He has to pay the assessment fixed for it and he thereafter proceeds after a reasonable time to spend labor and money on it so as to bring it under cultivation. If subsequently, the Government in accordance with the recommendation of the Deputy Commissioner directs the disturbance of such possession, the consequence would be a loss to the person concerned. All such inconveniences would be minimized by the abrogation of the rule which makes a reference to Government indispensable. It is a matter for consideration whether the head of a district cannot safely be entrusted with the comparatively small power of himself dealing with such matters. Under para 26, the grant by the Amildar is conditional and not absolute. A man taking possession under such a provisional grant, takes it subject to the liability of being dispossessed in the event of the grant being cancelled by the appellate or revisional authority. If aggrieved by the Deputy Commissioner's order, he has the right of either appealing to Government or of invoking its interference in revision. There is thus no useful object to be gained by the retention of a rule which is sometimes prejudicial to the very person for whose benefit it is intended while at other times it either retards or frustrates the redress of grievances.

(2) Also:—The following communications from the other Deputy Commissioners and Sub-Division Officers on the subject—

1.	No.	1035,	dated 27th May 1895,	Deputy Commissioner,	Tumkur.
2.	„	755	„ 30th „	do	Kadur.
3.	„	946	„ 11th June 1895,	do	Hassan.
4.	„	1446	„ 19th „	do	Mysore.
5.	„	197	„ 20th June 1895,	Sub-Division Officer,	Sagar.
6.	„	5143/1574	„ 29th June 1895,	Deputy Commissioner,	Kolar.
7.	„	59	„ 18th July 1895,	Sub-Division Officer,	Closepet.
8.	„	27	„ 19th „ „	do	Chikballapur.
9.	„	83-67	„ 24th July 1895,	Deputy Commissioner,	Shimoga.
10.	„	233	„ 27th August 1895,	Sub-Division Officer,	French Rocks.
11.	„	805	„ 24th February 1896,	Deputy Commissioner,	Bangalore.

(3) Letter No 200, dated 15th September 1897, from the Superintendent of Revenue Survey in Mysore.

In returning your Official File No. 131 of 1895 received with your docket No. 2616—R. F. 131-95 of the 6th instant, on the subject of modifying paras 26, 27 and 29 of Rule XX of the Mysore Land Revenue Rules as suggested by the Deputy Commissioner of Chitaldrug, as well as the abstract of the opinions of the other Deputy Commissioners on the same subject, I have the honor to offer the following remarks.

2. First of all, I would observe that it is a mistake to suppose that in Bombay no rules have been framed under Section 60 of the Bombay Code corresponding with Section 58 of the Mysore Code. Bombay Rule 34 G. lays down that "the occupancy of land granted by the Collector for agricultural purposes only shall be granted for terms of one year only", and the proper procedure in cases of application for unoccupied land is laid down in the rules generally. I do not by any means advocate the adoption of the one year rule in Mysore, although it would apparently meet the present difficulty, because it might create want of confidence. What I do advocate, however, is that portion of the Bombay procedure which puts an applicant in immediate possession once the preliminaries culminating in the issue of Appendix E (corresponding to Appendix D of the Mysore Land Revenue Rules) are completed, and which has no precautionary measures or delay of registry against chance of appeal or revision of proceedings as laid down and now proposed to be laid down in paras 26 and 27 of Mysore Rule XX now under discussion. There is in fact in Bombay no difficulty in the law taking its course and in possession being regained and registry altered in accordance with the decision of any competent court.

3. No one will question the necessity, indeed Appendix D to the Rules clearly lays down the necessity of immediately putting the applicant or purchaser of unoccupied land in possession. This being the case, I quite fail to see the use of paras 26 and 27 of Rule XX which do not deal with possession at all but only with registry. The whole of the present difficulty, if there really is any difficulty, lies in the matter of possession. There is no difficulty in altering the registers but there is a difficulty in ousting an applicant once authoritatively put in possession, and I will allude to this when discussing sub-rule 29. I am entirely in favor of cancelling sub-rules 26 and 27.

4. Should Government, however, decide to retain sub-rules 26 and 27, I would add nothing to them as regards so indefinite and remote a contingency as the calling for and examining records under Section 217 of the Code which may occur at any time, for, so far as I can see, there is no limit of time within which such records must be called for.

5. Sub-rule 29 appears to me to be badly worded with reference to the aim and object which were in view. As now worded it might be read as implying the sanction of Government being obtained for dispossession before the case was heard on appeal, thus in a measure foreclosing Government's own appellate power. It might also be read as impairing the power given to the Deputy Commissioner under Sections 185 and 216 of the Code. This, I am sure, cannot have been the aim of sub-rule 29 and yet any one reading it might come to that conclusion. The aim of sub-rule 29, I take it, was to guard against hasty dispossession before final decision, as defined in Section 218 of the Code, that is, while there was still a higher court to appeal to. I quite agree with the views expressed by the 2nd Councillor regarding the salutary nature of sub-rule 29 and the serious consequence involved in hasty and perhaps frequent dispossession. I would suggest sub-rule 29 being amended to read as follows:—

> 29. If in any case an appeal is admitted after the applicant or purchaser has been put in possession, his possession shall not be disturbed unless the decision or order has become final as defined in Section 218 of the Land Revenue Code.

6. If the rule be worded as above the final order will rest with Government if the parties appeal within the periods laid down in the Code and the rule will not conflict with any of the provisions of the Code itself.

No. 7092-100—R. F. 131-95, dated Bangalore, 31st January 1898.

Order thereon.—Government agree with the Superintendent of Revenue Survey that the usefulness of paras 26 and 27 of Rule XX is not apparent, as they deal only with the registry of the land in the name of the applicant or purchaser as the case may be and not with possession of the land which is given immediately after the prescribed formalities are observed, and that there is no difficulty in altering the registry but there is a difficulty in ousting a person once authoritatively put in possession. Further, para 26 lays down no rule or direction. It is simply a statement of what the law is under the Code. What is stated of appeals is also true of revision proceedings. Government are, therefore, of opinion that the retention of paras 26 and 27 is unnecessary and accordingly direct their cancellation.

2. As regards para 29, Government observe that it is an important and wholesome rule framed with the object of preventing hasty and frequent dispossession after possession has once been given to the individual concerned. If every appellate authority—a Deputy Commissioner, a Sub-Division Officer and an Assistant Commissioner—goes on changing possession till the matter comes up before

Government, it is possible that there may be not less than three such changes. This is highly prejudicial not only to the parties concerned but also to the proper development of cultivation. Further, there is no reason to make a distinction between appeals admitted under Section 211 within the prescribed time, and those admitted after that period under Section 212, as para 29 has no reference to the time when the appeal is admitted. Government are not, therefore, disposed to cancel the rule altogether, but agree with the Superintendent of Revenue Survey that it is not properly worded and that it requires modification in the manner suggested. His suggestion is very reasonable and sound and answers all objections.

3. The following Notification cancelling paras 26 and 27 and modifying para 29 under Rule XX of the Land Revenue Rules will be published in the *Gazette*.

NOTIFICATION.

No. 7101—*R. F.* 131-95, *dated* 31*st January* 1898.

The Government of Mysore are pleased to direct that paras 26 and 27 of Rule XX of the Mysore Land Revenue Rules issued under Notification No. 150, dated 22nd July 1890, be cancelled, and that para 29 of the same rule be modified as follows:—

(1) For the words "happen to be" in the 1st line, substitute "is".

(2) In the same line, between the words "applicant" and "has" insert the words "or purchaser."

(3) In the 2nd line, substitute "shall" for "should."

(4) In the same line for the words "without an express order of Government" substitute the clause "unless the decision or order has become final as defined in Section 218 of the Land Revenue Code."

2. Para 29 modified as above will read as follows:—

"If in any case, an appeal is admitted after the applicant or purchaser has "been put in possession, his possession shall not be disturbed unless the decision or "order has become final as defined in Section 218 of the Land Revenue Code."

C. SREENIVASIENGAR,
Secy. to Govt., Gen. & Rev. Depts.

To—The Superintendent of Revenue Survey in Mysore,
The Deputy Commissioners of Districts.

Exd.—H.A.R.

4

1897-98

GOVERNMENT OF MYSORE

REVENUE

PROCEEDINGS

Dated 31*st January* 1898

No. 7092-100 / R.F.131-95

Directing, with certain remarks, the cancellation of paras 26 and 27 and the modification of para 29 of Rule XX of the Land Revenue Rules, and ordering the publication in the *Mysore Gazette* of a Notification to the above effect.

M.G.C.P.B.—20-3-98—250